

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICHOLAS ALLEN BALL and
EMMANUEL CREASMAN, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL BALL,

Respondent-Appellant,

and

KIMBERLY SCHROEDER and EVERETT
CREASMAN,

Respondents.

UNPUBLISHED

October 23, 2003

No. 247822

Ingham Circuit Court

Family Division

LC No. 00-050045-na

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Respondent Michael Ball appeals as of right the order terminating his parental rights to Nicholas Allen Ball. We affirm.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

The petition alleged that respondent deserted the child and failed to provide proper care and custody. MCL 712A.19b(3) provides for termination when

(a) The child has been deserted under either of the following circumstances:

* * *

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

There is clear and convincing evidence to support the termination of respondent's parental rights. Respondent had minimal contacts with the agencies in April, May, and June 2002. Over 91 days passed between respondent's last efforts in June 2002, and the filing of the termination petition in December 2002. The court properly found that respondent deserted the child, and failed to provide proper care and custody.

Respondent's due process rights were not violated by the withdrawal of counsel. A parent in a termination procedure has the right to counsel. *In re Powers*, 244 Mich App 111, 121; 624 NW2d 472 (2000). However, the court rule charges parents with some responsibility, and the right to counsel may be waived or relinquished. *In re Hall*, 188 Mich App 217, 222; 469 NW2d 56 (1991). Where respondent failed to contact counsel for an extended period, and did not attend hearings, respondent effectively terminated the attorney-client relationship and waived the right to counsel. *Id.*

Affirmed.

/s/ Richard A. Bandstra
/s/ Joel P. Hoekstra
/s/ Stephen L. Borrello